

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**CHAMBER SUMMONS NO. 1602 OF 2007
IN
EXECUTION APPLICATION NO. 11 OF 2007
IN
SUMMARY SUIT NO. 2050 OF 2003**

Fortis Financial Services Ltd. ... Plaintiffs.
V/s.
Dilip Kumar Ray. ... Defendant.
And
State Bank of Saurashtra. ... Applicants.

Mrs. P. Dholakia i/b. Dholakia Law Associates for
the Plaintiffs.
Mr. S. Purohit a/w. Mr. Madhur Rai i/b. Negandhi,
Shah & Himayatullah for the Applicants. for the
Defendant.

CORAM : S.J. VAZIFDAR, J.

09TH OCTOBER 2007.

P.C. :-

. The Chamber Summons is taken out by the State
Bank of Saurashtra for raising the attachment on the
immovable property pursuant to the Warrant of
Attachment dated 15th January 2007 and for the order
permitting the Applicant to conduct the auction of the
suit property and to appropriate the net sale proceeds
towards their dues. In the alternative, it is prayed
that the sale be conducted by this Court.

2. There is no dispute that the Applicant is a secured creditor including in respect of the said property to the extent of over Rs. 5.00 crores. Nor is there any dispute that the Plaintiff/Judgment Creditor is an unsecured creditor. In the circumstances, there is no warrant to obstruct the Applicant from enforcing its rights in respect of the said property including under the Securitization Act.

3. As requested by the Plaintiff, the Applicant has agreed to keep the Plaintiff's Advocate inform of the sale that it proposes to conduct in respect of the said property and of any application that the Applicant may make to any Court, Tribunal or Authority, in connection therewith.

4. The surplus money, if any, shall be deposited after appropriation of the net sale proceeds. Liberty to apply in that event.

6. The Chamber Summons is made absolute in terms of prayer clauses (a) and (b).
